



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/521,110

07/12/2005

Toni Paila

4208-4233

7098

27123 7590 10/08/2008  
MORGAN & FINNEGAN, L.L.P.  
3 WORLD FINANCIAL CENTER  
NEW YORK, NY 10281-2101

EXAMINER

ZEWDU, MELESS NMN

ART UNIT

PAPER NUMBER

2617

NOTIFICATION DATE

DELIVERY MODE

10/08/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOPatentCommunications@Morganfinnegan.com  
Shopkins@Morganfinnegan.com  
jmedina@Morganfinnegan.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/521,110	<b>Applicant(s)</b> PAILA ET AL.	
	<b>Examiner</b> Meless N. Zewdu	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-19 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-19 and 23-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to the communication filed on 9/8/08.
2. Claim 5 has been cancelled in this amendment.
3. Claims 20-22 were previously cancelled.

### ***Claim Objections***

Claim 1-4, 6, 8, 10-12 and 13-18 are objected to because of the following informalities: "A method" and "An apparatus" , in the preamble, should be changed into --- the method and the apparatus, respectively.. Appropriate correction is required.

Claim 7 is objected to because of the following informalities: "level one or more" on line 7, should be --- level of the one or more ---. Such correction is required in claims 19, 23 and 25, on respectively lines 11, 8 and 8. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: "data indicating" on line 6, should be --- data indicator for indicating ---. Such a correction is also required in claim 13 on line 5, in claim 19 on lines 5 and 7, and in claim 25 on line 4. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: "receive announcement" on line 8 should be --- receive the announcement ---. Appropriate correction is required.

Art Unit: 2617

Claim 12 is objected to because of the following informalities: "dependent the timeout" on line 4 should be --- dependent on (upon) the timeout ----. Appropriate correction is required.

### ***Specification***

The amendment filed 12/04/07 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "wherein the first level is lower than the second level" does not have support in the specification. On the contrary, the specification supports "a second level being lower than the first level", but not otherwise. Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 2, 7-10, 13-14, 19 and 23-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to

Art Unit: 2617

make and/or use the invention. The feature, "wherein the first level is lower than the second level" is not described in the specification, in a manner as claimed, and it is not clear what it means. For examination purpose, examiner interprets the phrase as to mean "wherein the second level is lower than the first level" as provided in the PGPUB (paragraph 0036) of the application.

Claims 1 and 24 recites the limitation "the quantity of announcement information" in lines 8 and 6, respectively. There is insufficient antecedent basis for this limitation in the claim.

### ***Allowable Subject Matter***

Claims 1, 7, 9, 13, 19, 23, 24 and 25 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

### ***Response to Arguments***

Applicant's arguments filed 9/8/08 have been fully considered but they are not persuasive. With regard to the issue of new matter rejection (of claims 1, 7, 9, 13, 19, 23, 24 and 25), regarding the feature reciting "**wherein the first level is lower than the second level**" (emphasis added), examiner does not find the argument one of convincing. In no wherein, in the specification, examiner finds a support for such a feature and/or no logic lends to assume either. Although the amended drawing of fig. 3, submitted with this response show as claimed, there is no such description provided in

Art Unit: 2617

the detail description of this drawing. In fact, the abstract and the body of the spec. provides description supporting the examiner's view. Even in the amended fig. 3, what is shown is a first level (RM), a second level (x1, x2, x3 --- xi and a third level, that sources out (originates) from level x3.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meless N. Zewdu whose telephone number is (571) 272-7873. The examiner can normally be reached on 8:30 am to 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bost Dwayne D can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 2617

Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-26-00.

/Meless N Zewdu/  
Primary Examiner, Art Unit 2617  
10/7/2008